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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,462	09/05/2003	Richard Lee Smith	1225.14	8430

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EXAMINER

SOOHOO, TONY GLEN

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,462

Applicant(s)

SMITH, RICHARD LEE

Examiner

Tony G. Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-22 and 25-34 is/are pending in the application.
- 4a) Of the above claim(s) 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-22 and 25-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 34 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: species of an dispensing system mounted upon an independent platform is independent and distinct from the originally claimed species of the secured mounted or secured platform (for example claim 14 or claim 28, 29, and 33) and would have been restrictable if originally presented. It is noted that the species of an "independent platform" was not originally presented in the claim examined upon the merits and is also further deemed as a shift of invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 34 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim interpretation

2. Claims use the alternative phrase "one or more" as a modifier of "motors" drive assemblies". The scope presented is an alternative form and is broad to encompass a choice of a respective single motor with a single respective drive via the choice "one" to each supply tank. An alternative choice of the motor/drive connection has been pointed out by a choice of a plurality of motors connected to plural drives via the choice "or more". Absent any further distinction by a positive recitation of within the depending

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claim(s) that the choice is further limited to exclude the choice of a respective single motor and single respective drive, the scope of the claim is being read to encompass such a broader interpretation. The claim is so imprecise in the recitation of "said drive assemblies" that it is open to interpretation of refereeing to a "respective" of the drive assemblies, or "each of the other" drive assemblies. It is further noted that the scope of the independent claim 1 has not positively pointed out that the a motor may drive "another" or "other" drive assembly other than its own respective drive assembly. See claim 9 which additionally exemplify this interpretation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4-7, 9, 12, 15-22, 25, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Moffett et al 5980836.

Moffett discloses a liquid mixing device which is fully capable to mix any liquid desired which is placed in the solution tanks 10, 12, 14, 16, pumps assemblies 68, 36, 44, 24, 102, 84, and a manifold (in figure 1) 20, at 52, at 76, at 78, (in figure 2) 20, 20A, 78, 78A, 76, 76A, (or in figure 3) 78, 106, 20, a drain assembly see figures labeled "drain". It is noted that each figure shows conduits and inherently have couplings to couple the conduits with the tanks, with the pumps, and with valves and drain such that

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a fluid connection is provide into a device of fluid handling system. With regards to claim 28 note that the tank 16 may be heated, column 2, line 65. It is also noted that the manner of use of the device is directed to a method of operation of the device and does not structurally distinguish the apparatus in a patentable sense and thus has been afforded little, if any patentable distinction.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moffett et al 5980836.

The Moffett (et al) reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of couplings capable of receiving a hose (claim 3) and the pump being a diaphragm pump (claim 11). It is noted that the Moffett reference teaches conduits, and it has been deemed that the Moffett reference would inherently have couplings, however is absent to the capability of couplings to connect hoses. It is old and well known in the art of fluid handling that hoses may be uses as fluid conduits whereby it may provide a more flexible conduit for ease of installation. Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the device of Moffett et al such that the couplings are

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capable of connecting hoses together so that hoses may be used for ease of construction of the fluid handling system.

With regards to claim 11, in the art of pumps, the particular species of a diaphragm pump is old and well known as a structural functional equivalent of a pump to pump fluid. Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to substitute the pumps of the Moffett reference with a particular choice of the functional equivalent pump species of a diaphragm pump, so that fluid is moved in a more efficient manner.

7. Claim 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moffett et al 5980836 in view of Cornell 3124270 (newly cited).

The Moffett (et al) reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of also including one motor which "is connected to one of said drive assemblies such that said motor engages said one drive assembly thereby to drive each of said drive assemblies."

The Moffett reference discloses each one motor connected to a each respective drive assembly thereby the each drive assembly is driven.

The reference to Cornell teaches that a pump control system may utilize a single motor 15 which connected to drive assemblies 28, 29, 30 which drive respective pumps 1,2,3, so as to provide convenient and precise proportional pumping of plural liquid ingredients.

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In view of the teaching of the drive system of plural metering pumps of the Cornell reference it is deemed that it would have been obvious to one of ordinary skill in the art to substitute for the plural respective pumps of the Moffett device with a single motor drive in connection to drive the plural pumps of the Moffett pumps so that the proportional metering of the supply fluids maybe provided in a more convenient and precise manner.

8. Claims 13-14, 26-27, 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moffett et al 5980836 in view of Bullard 3957203 and Atkinson 3074649.

The Moffett (et al) reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the system being 13-14 is mounted on a vehicle or mobile platform, with a cab, boom, or basket and a nozzle.

The Bullard 3957203 reference teaches that a mixed fluid material supplied in a tank 134 may be provided upon a mobile platform 12 and sprayed utilizing a boom 76 mounted nozzle 82.

The Atkinson reference teaches that a fluid delivery system from a tank 9, boom 3 and nozzle 1 may be operated from the cab at 53.

It is also noted that it is old and well known in the art of boom assemblies to provide a basket for an operator.

In view of the Bullard and Atkinson references, it is deemed that it would have been obvious to one of ordinary skill in the art to provide for the mixing device of Moffett

et al with a mount upon on a vehicle or mobile platform, with a cab, boom, or basket and a nozzle for the mixer tank device of Moffett et al so that the mixed fluid may be easily transported and delivered to particular location.

Response to Arguments

9. Applicant's arguments filed 11-14-2005 have been fully considered but they are not persuasive. Applicant argues that the claims distinguishes over the Moffett et al 5980836 and the combination of the prior art whereby applicant argues that a motor capable of engaging one or more of the drive assemblies of another pump, see page 17 last paragraphs of applicant's remarks. In response, the claim does not require the plural connection of a motor with "another" different driving assembly. The newly amended claim language presents the number of connections in alternative form and is inclusive of only "one" thereby the scope presented only requires a each single (read as "one") motor to be connected to a each single (read here again as "one") respective drive to a single respective pump. No exclusive requirement one motor driving another drive of has been made with regards to the independent claim(s). Claim 9 reinforces this interpretation.

10. Applicant argues that the secondary reference to Bullard and Atkinson "fails to teach the use of an platform independent of a vehicle that is capable of supporting [the structural elements of the mixing and dispensing device]" and further alleges that Bullard "teaches away from the present invention because it describes a singe tank ... that is secured to a truck bed". In response, issues to an "independent platform" is not

presently claimed in the claims in the rejection. The claims merely require mounting of the structure on a mobile platform. The Bullard reference and the Atkinson reference is cited to establish that it is old and well known to mount a dispensing device upon a platform and to have the platform be mobile. Additionally, it is cited to establish that it is old and well known to utilize a boom, nozzles and arm assemblies and structure to provide a positionable fluid delivery of fluid from a tank mounted on a platform.

Reasons for motivation to combine has been pointed out in section 8 above in the rejection for reasons so that the mixed fluid may be easily transported and delivered to particular location.

11. Applicant's remarks on page 23-24 with regards to the statement that "applicant has amended independent claims 1 and 15 to incorporate the subject matter of dependent claims 8 and 9; and claims 22 and 23 respectively. it is noted that applicant has not copied the entire subject matter of claims 8 and 9 into claim 1, and 22 and 23 into claim 15. The text does not correspond to an amendment which has whole incorporated the scope of the claim language previously presented in claims 8 and 9. This statement is partially inaccurate whereas applicant has also added additional language via the multiple uses of alternate language via "one or more" which was not previously presented in dependent claims into the newly amended dependent claim. and therefore, has presented a new claim with new issues in which has necessitated the new grounds of rejection and is addressed in the rejection made above.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following disclose one motor driving plural pumps: McGowan 2638847, and Grandberg et al 2244106.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

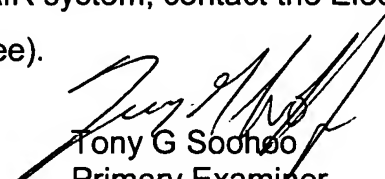
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7-5PM, Tue-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Sochoo
Primary Examiner
Art Unit 1723